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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifteenth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 November 1996, at 10.30 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the fifteenth session of the Committee on Economic, Social and Cultural Rights.

STATEMENT BY THE ASSISTANT SECRETARY-GENERAL FOR HUMAN RIGHTS

2. Mr. FALL (Assistant Secretary-General for Human Rights) said that the Committee's current session was symbolic for a number of reasons, first of all because it marked the twentieth anniversary of the entry into force of the International Covenant on Economic, Social and Cultural Rights. The Covenant would certainly continue to play a vital role in upholding human rights in future and, in that regard, the need to address the close link between the rights set forth therein and other human rights was becoming increasingly apparent. Furthermore, the Committee had now been in existence for 10 years and was to be commended on its approach and achievements, particularly in view of the somewhat unfavourable climate in which its activities had begun. Last but not least, the agenda for the current session addressed a number of important matters, including the drafting of an optional protocol that would fill a notable gap by enabling persons claiming to be victims of violations to submit individual communications to the Committee, a practice already applied under other human rights instruments.

3. At its most recent session, the Economic and Social Council had followed up on the issue of the Committee's status, terms of reference and powers vis-à-vis those of other human rights treaty bodies. As a result, the Secretary-General had prepared a well-documented report that examined the Committee's particular status and focused on ways and means of aligning it with that of other committees, in accord with the principles laid down in the Vienna Declaration and Programme of Action. The report, which was currently before the Third Committee of the General Assembly, indicated that there were essentially two options: either to draft a suitable protocol or to amend the Covenant itself. The Secretary-General favoured the latter option, in the interests of speed and efficiency. He hoped that the Committee would give the matter further consideration on the basis of the Secretary-General's report and make appropriate proposals in that regard, for the aim was to give the Committee the same standing as the other bodies monitoring human rights instruments as soon as possible and he feared that the drafting of a protocol might prove too time-consuming.

4. Attention should be drawn to the first meeting of the intergovernmental group of experts set up by the Commission on Human Rights to elaborate a strategy for the implementation and promotion of the right to development. He hoped that during the current session the Committee would look into how it might contribute to the work of that Working Group, for instance by sending a representative to a forthcoming meeting to present the Committee's views. It should also be remembered that 1998 - the year designated by the World Conference on Human Rights to assess implementation of the Vienna Declaration and Programme of Action - was drawing ever nearer. The Committee might

therefore wish to undertake a critical analysis of matters within its sphere of competence, with a view to playing an active role in that assessment exercise.

5. He paid a tribute to the efforts of intergovernmental and non-governmental organizations in implementing economic, social and cultural rights, and noted with satisfaction the attendance at the Committee's session of representatives from specialized agencies and financial institutions. He also welcomed strengthened cooperation with non-governmental organizations (NGOs) and wished to stress the value of closer links with those organizations active in the field of development, as borne out by joint NGO meetings held during recent sessions of the Commission on Human Rights. Other NGO initiatives such as the organization of a seminar on economic, social and cultural rights, had served to create greater awareness on the subject and were therefore worthy of praise. He was confident that with such on-going cooperation the Committee would continue to make good progress in its work.

6. In conclusion, he paid a tribute to those members of the Committee whose terms of office expired at the end of the current session. He was sure that their efforts directed towards the implementation of economic, social and cultural rights would be pursued elsewhere.

7. The CHAIRPERSON expressed the firm hope that the Committee's achievements during the current session would even exceed the expectations of the Assistant Secretary-General for Human Rights. He wished to thank the Assistant Secretary-General and the Centre for Human Rights for the support given to the Committee in its activities.

8. Mr. ALVAREZ VITA said that the statement of the Assistant Secretary-General for Human Rights would provide encouragement not only for the members of the Committee but also for those representatives of specialized agencies and NGOs attending the meeting. He assured the Assistant Secretary-General that, notwithstanding the expiry of his term of office, he would continue to strive for the realization of economic, social and cultural rights. Lastly, he drew attention to the fact that 4 December would mark the tenth anniversary of the adoption of the Declaration on the Right to Development.

9. Mrs. JIMENEZ BUTRAGUEÑO welcomed the emphasis placed by the Assistant Secretary-General on the link between the work of the Committee and the right to development. In that regard, it was worth noting that she and Mr. Alvarez Vita had delivered reports at a seminar held recently in Madrid on the subject of cooperation in the areas of development and human rights.

10. Mr. TEXIER said he would welcome more information regarding the possible amendment of the Covenant, a matter that should be pursued by the Committee during the current session.

11. Mr. FALL (Assistant Secretary-General for Human Rights) took note of the comments by Mr. Alvarez Vita, Mrs. Jiménez Butragueño and Mr. Texier. He added that, following his discussions with the head of the Department for Policy Coordination and Sustainable Development on cooperation between bodies

concerned with social development and those concerned with human rights, the future director of the department responsible for social development would pay the Committee a visit to see how such cooperation could be implemented.

ADOPTION OF THE AGENDA (agenda item 1) (E/C.12/1996/3)

12. The agenda was adopted.

ORGANIZATION OF WORK (agenda item 2) (E/C.12/1996/L.2)

13. Mr. TEXIER, referring to the draft programme of work (E/C.12/1996/L.2), said that he would be absent for most of the second week of the session, and some amendments to the proposed schedule, in particular concerning the review of the implementation of the Covenant in Honduras, might prove necessary.

14. The CHAIRPERSON said he took it that the Committee wished to adopt the draft programme of work, subject to any minor amendments that might be required.

15. It was so decided.

RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES (agenda item 7)

16. The CHAIRPERSON noted that, since the Committee's previous session, two world conferences on issues relevant to the Committee's work had taken place. The United Nations Conference on Human Settlements (Habitat II) had endorsed the right of all to adequate housing, the only dissenting voice being that of the United States. It had, moreover, outlined action that should be taken by Governments, in accordance with an analysis that mirrored the Committee's own comments. In addition, the World Food Summit had affirmed in its Declaration the right of everyone to have access to safe and nutritious food consistent with the right to adequate food and the fundamental right of everyone to be free from hunger. The Summit's Plan of Action contained two particularly important provisions. The first - that every State should set up a monitoring mechanism on hunger - would transform the Committee's work, since it could turn for information directly to the Governments involved. Secondly, the Plan of Action called on all concerned to define "adequate food" and to work towards implementing that right. In what amounted to a mandate for the Committee, it invited treaty bodies, the specialized agencies, the High Commissioner for Human Rights and other organizations to give serious consideration to the issue, with a view to issuing voluntary guidelines.

17. The Committee could be proud of its influence, whether direct or indirect, on the outcome of both conferences, especially considering the fact that the right to adequate food had been endorsed by all - with the exception of the United States of America. That country's view that the right to adequate food should be regarded simply as a "goal or aspiration" should be seen in perspective: not only was it the only country to adopt that position, but it had done so under what he believed to be the fundamental misconception that such a provision gave rise to an internatonal obligation for rich countries to feed poor ones. It could be argued that there should be such an obligation - he himself would favour it - but neither the Committee nor any other treaty body had ever pressed for it.

18. Turning to other recent developments, he noted that the new Constitution of South Africa contained a lengthy set of provisions concerning economic, social and cultural rights, on which the Government made important commitments. He also wished to draw the Committee's attention to the seventh meeting of persons chairing the human rights treaty bodies, held in September. Among those addressing the meeting had been the officer responsible for documents control in the Conference Services Division, who had said that in future the five Geneva-based treaty bodies would be limited to 3,000 pages of translated documents a year. If that allocation was divided among the treaty bodies in proportion to the number of meetings each held, the Committee's reduced share would mean that State party reports would have to be restricted to 40 pages in length. He had not been satisfied by the documentation put forward in support of the decision, which seemed to him arbitrary. He intended eventually to propose eliminating the current type of report and replacing it by reports on specific issues to be determined by working groups, but no changes could come in the immediate future. A similarly strange situation applied to the formal insistence on equality between the United Nations languages at a time when ever more limited resources were available for interpretation and translation, with the result that work would increasingly have to be based on texts in a single language.

19. The chairpersons' meeting had been informed about a special package prepared by the High Commissioner for Human Rights for the Committee on the Rights of the Child, which had requested an addition of $1.5 million to its budget. The chairpersons had supported that "plan of action", but had seen the risk of a radical imbalance emerging between the resources available to the Committee on the Rights of the Child and those available to the other treaty bodies. Assurances had been given that there would be a flow-on effect from the pilot programme, which might subsequently be applied in relation to other treaty bodies, but there remained the risk of imbalance.

20. The Committee could with advantage formulate a programme of action of its own. He was pleased to note that the Centre for Human Rights was becoming more responsive and open, although financial resources were still limited. Above all, the Centre seemed to have acknowledged that economic rights had tended to be neglected in its advisory services programme and, at the Committee's insistence, had taken steps to improve the situation.

21. The persons chairing the human rights treaty bodies had agreed that the flow of information to Committees was inadequate and that the Centre for Human Rights was not transparent enough. The chairpersons had to ask for virtually all documents of interest and had not, for example, been informed beforehand about the new arrangements for the Committee on the Rights of the Child. Similarly, they had been told little about the current restructuring of the Centre, even though it had potentially important implications for the treaty bodies. From the little the chairpersons knew, the proposed arrangements were unsatisfactory.

22. There had been discussion of revising the guidelines on the human rights of women. The Chairperson of the Committee on the Elimination of Racial Discrimination had been reluctant to change the existing guidelines with reference to gender issues but that position had not been shared by the other chairpersons. There had also been a request that the treaty bodies should be

more explicit in their requests: for example, the World Bank should be specifically invited to certain meetings, rather than simply requested to provide support. In that connection, he had not written to the World Bank, as the Committee had requested, preferring to wait until the High Commissioner for Human Rights had held a second meeting with the Bank, at which economic and social rights might be discussed fruitfully.

23. The chairpersons had agreed that - as was already the case within the Committee and the Committee on the Rights of the Child - members of treaty bodies should, in the interests of impartiality, refrain from participating when reports from their own countries were being considered. Problems in that respect had arisen in the Committee on the Elimination of Racial Discrimination. It had also been agreed that the addresses of members of the treaty bodies should be made available to NGOs and others that might request them, unless individual members preferred otherwise and notified the Secretariat accordingly.

24. It was his understanding that impetus for the Economic and Social Council's discussion of the status of the Committee had come partly from the fact that some States had wanted to change the way in which its members were elected. Currently, they were elected by the Council itself, with the result that a majority of States parties could not participate in the election because they were not members of the Council. The solution would be to institute a meeting of States parties, such as was held for other treaty bodies. Fortunately, the discussion in the Economic and Social Council had focused not only on the question of elections, but also on means of ensuring that the Committee enjoyed a status completely equal to that of the other treaty bodies. The report requested from the Secretary-General on how that could be achieved ultimately reflected the narrow legalistic concerns of the Office of the Legal Counsel, which stated that any amendment to the Convenant for that purpose would have to be ratified by all States parties - a requirement that, in his view, was most unlikely to be fulfilled given the demanding and time-consuming constitutional procedures involved.

25. An alternative would be for an amendment to be made that would establish the Committee as the legally constituted treaty body in relation to those States parties which ratified the amendment and leave it in its current status for those that did not do so. However, the Office of the Legal Counsel had dismissed that arrangement as not possible - although the Inter-American Commission on Human Rights had been operating on precisely such a dual basis since 1970. The matter had, in any event, been referred back by the Economic and Social Council to the States parties, presumably so that they could meet informally and decide whether to request the Council to convene a meeting of States parties, without amending the treaty. Such a meeting might provide for elections - which would still have to be ratified by the Council in the absence of an amendment - and also for the payment of honoraria to members of the Committee that would place them on an equal footing with members of other treaty bodies, who currently received the princely sum of US$ 3,000 a year.

26. The new working group on implementation of the right to development mentioned by the Assistant Secretary-General for Human Rights had adopted its

report, which simply listed all the proposals made to date. There was nothing of major, direct importance for the Committee to consider at the current stage, although clearly there would be in the future.

27. Further to the suggestions for the protection of economic, social and cultural rights in the context of structural adjustment, made by Mr. Türk, a former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights had established a working group to consider draft guidelines to be taken into account in the structural adjustment process. The Secretary-General had been requested to produce a set of draft guidelines, but had been given no specific guidance, and had therefore submitted a 25-page compilation that was best viewed as a background paper. The working group was due to meet in March 1997 and he had been requested to submit comments by 15 November 1996; he had replied that there was not sufficient time and that he would refer the matter to the Committee. Members should therefore take a look at the document in question and decide whether they wanted to send an official reply.

28. He wished to inform the Committee of the most recent developments in the case of Mr. Alexandre Muterahejuru, a former member of the Committee from Rwanda, who two years previously had informed it that he had been in great distress in a refugee camp. Earlier in 1996 Mr. Muterahejuru had indicated in a letter that he was being held in prison in Kigali charged with various offences, including genocide; that he was one of 70,000 people imprisoned pending consideration of their cases; that prison conditions were abysmal; that various members of his family had been killed; and that his house had been destroyed and his personal possessions stolen. Contact had been made with the chief of field operations of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Rwanda, who had been very helpful and had arranged for Mr. Muterahejuru to be visited in prison. It had, however, justifiably been pointed out that the United Nations mission could not request special attention for one individual out of 70,000 persons, but that the Committee itself could do so. Accordingly, on 4 September he (the Chairperson) had written to the President, asking for the case to be reviewed as soon as possible and attesting to Mr. Muterahejuru's qualities of integrity, honesty, goodwill, compassion and common sense. No reply had as yet been received. Subsequently, a letter signed by all six chairpersons of the human rights treaty bodies had been sent to the President of Rwanda. The Secretariat would be asked to contact the United Nations mission to ascertain whether there were any new developments. If nothing more had come to light by the end of the Committee's current session, he would follow the matter up with the President of Rwanda.

29. Mr. Muterahejuru's family was in great difficulty and any material assistance would be appreciated. He himself had sent a small amount of money out of his own funds, and he invited other members to do the same.

30. At the previous session he had been asked to send a letter to the Government of Israel requesting a response to certain information put before the Committee. In reply he had received a letter from the Government protesting that the procedures followed by the Committee were unfair and

discriminatory against Israel. He had therefore sent a further letter, pointing out that the Committee's action in the matter was consistent with that taken in respect of other countries. He had received no reply.

31. Regarding the case of the extensive displacement of people caused by a development project in Uganda funded by the World Bank and the European Union, he had informed the Bank and the Commission of the European Union that the Committee could report on the matter to the Economic and Social Council but would like to hear their views before doing so. Both institutions had responded, the World Bank stating that it believed that the European Union had not taken the measures agreed upon in order to remedy the forced relocation of the many people affected. He therefore intended to write to the World Bank, thanking it for its answer, and to the Commission of the European Union, inquiring whether it proposed to take any action. In his view, that kind of procedure should not be used too often, but when the Committee had very detailed information giving rise to genuine concern about the implementation of the Covenant, it was appropriate for it to seek clarification from the parties involved. The Committee's attention would also later be drawn to some specific issues regarding follow-up in relation to the Philippines, Venezuela, Israel, Paraguay and certain other countries.

32. A letter had been received from the Belgian Government expressing its appreciation of the visit made by Mr. Ceausu and Mr. Ahmed, on behalf of the Committee, for a briefing on the Covenant and the Committee's work, and for their help to the Government in the drafting of a report for the Committee. The two members concerned were to be congratulated on the fine precedent created.

33. Mr. Alvarez Vita and Mrs. Bonoan-Dandan would represent the Committee at the United Nations Population Fund (UNFPA) seminar to be held immediately after the Committee's current session. Also, the person chairing the committee of independent experts established under the Council of Europe's Social Charter had indicated that she would be very pleased to attend one of the Committee's future sessions to discuss matters of mutual interest. The Manual on Human Rights Reporting was being revised and he had prepared an up-to-date section on reporting under the International Convenant on Economic, Social and Cultural Rights. He would also shortly be submitting to the Committee a report relating to the revision of the draft optional protocol.

34. Lastly, he informed members that at 9.30 p.m. the Cable News Network (CNN) would be showing an item on the Committee's work, to be repeated at 11.30 a.m. on the following day.

35. Mrs. JIMENEZ BUTRAGUEÑO asked for information regarding the visit made by Mr. Simma and Mrs. Bonoan-Dandan to Hong Kong.

36. The CHAIRPERSON replied that the visit had taken place several weeks previously. He understood that it had been very successful and trusted that the two members concerned would brief the Committee when it took up the United Kingdom report concerning Hong Kong.

The meeting rose at 12.25 p.m.